

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MOHAMMED ABDUL MAJID,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-05-08-M
)	
U.S. MARSHAL BERRYHILL, et al.,)	
)	
Defendants.)	

ORDER


On February 8, 2006, United States Magistrate Judge Gary M. Purcell issued a Supplemental Report and Recommendation in this civil rights action brought pursuant to 42 U.S.C. § 1983. The Magistrate Judge recommended that (1) defendant Whetsel's Motion to Dismiss [docket no. 45], construed as a motion for summary judgment, be granted; (2) defendants Suedo and Berryhill's Motion to Dismiss [docket no. 72] be granted; (3) this cause of action be dismissed without prejudice as to all defendants on the basis of plaintiff's failure to exhaust available administrative remedies as required by 42 U.S.C. § 1997e(a); and (4) in the alternative, with respect to plaintiff's cause of action against defendant Harvey, the Motion and Brief to Quash Service of Process of Defendant, Charles F. Harvey, DO [docket no. 38] be granted and the cause of action be dismissed without prejudice as to defendant Harvey. The parties were advised of their right to object to the Supplemental Report and Recommendation by February 28, 2006. On February 27, 2006, plaintiff filed his objections.

Having carefully reviewed this matter de novo, the Court:

- (1) ADOPTS the Supplemental Report and Recommendation issued by the Magistrate Judge on February 8, 2006;
- (2) GRANTS defendant Whetsel's Motion to Dismiss [docket no. 45], construed as a motion for summary judgment;

- (3) GRANTS defendants Suedo and Berryhill's Motion to Dismiss [docket no. 72];
- (4) DISMISSES this cause of action without prejudice as to all defendants on the basis of plaintiff's failure to exhaust available administrative remedies as required by 42 U.S.C. § 1997e(a); and
- (5) in the alternative, GRANTS the Motion and Brief to Quash Service of Process of Defendant, Charles F. Harvey, DO [docket no. 38] and DISMISSES this action without prejudice as to defendant Harvey.

IT IS SO ORDERED this 13th day of March, 2006.


VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE